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California Regional Water Quality Control Board San Diego Region

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<http://www.waterboards.ca.gov/sandiego>

October 2, 2008

CERTIFIED-RETURN RECEIPT REQUESTED
7007 3020 0001 0040 6860

Ms. Maureen A. Stapleton
General Manager
San Diego County Water Authority
4677 Overland Avenue
San Diego, California 92123-1233

In reply refer to:
CAU:14-1414.02:rstewart
Place ID: 625254

Dear Ms. Stapleton:

**AMENDED COMPLAINT NO. R9-2007-0014 FOR ADMINISTRATIVE CIVIL LIABILITY
FOR MANDATORY MINIMUM PENALTIES UNDER WATER CODE SECTION 13385,
VIOLATION OF ORDER NO. 2001-96, NPDES CO. CAG919002**

Enclosed is Amended Complaint No. R9-2007-0014, Administrative Civil Liability with Mandatory Minimum Penalties, for the amount of \$135,000 for violations of effluent limitations established by Order No. 2001-96, NPDES No. CAG919002, *General Waste Discharge Requirements for Groundwater Extraction and Similar Waste Discharges from Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters Within the San Diego Region Except for San Diego Bay*. The violations addressed in the Complaint result from the San Vicente Pipeline Project dewatering discharges at the Slaughterhouse Canyon Shaft Site to a tributary to the San Diego River.

The \$15,000 increase in the recommended liability above the original Complaint, issued on January 22, 2007, is necessary to account for five additional effluent limitation violations that you reported to the Regional Board for the December 2006 and January 2007 reporting periods that were not contained in the original Complaint.

Based on communication with representatives of San Diego County Water Authority, I understand that you do not intend to contest the assessment of the mandatory penalty, however, you request that \$75,000 of the penalty be used to fund a Supplemental Environmental Project (SEP) by the San Diego River Conservancy. This is the maximum amount allowed under WCS 13385(I)(1). The remaining \$60,000 of the penalty would be paid to the State Water Resources Water Pollution Cleanup and Abatement Account.

California Environmental Protection Agency

Ms. Maureen A. Stapleton
San Diego County Water Authority

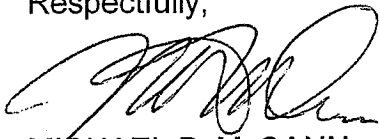
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In order for this matter to appear on the Regional Board's November 12, 2008 agenda you must verify your intentions in writing no later than October 14, 2008. Mr. Michael Nelson of the San Diego River Conservancy has already provided the Regional Board with a description of the SEP that is proposed to be funded.

Please contact Rebecca Stewart at (858) 467-2966 or via e-mail at Rstewart@waterboards.ca.gov if you have any questions concerning this matter.

Respectfully,



MICHAEL P. McCANN
Assistant Executive Officer

MPM:mja:rls

Enclosures: Amended Complaint No. R9-2007-0014

cc: with enclosures (via email only)

Larry Purcell, San Diego County Water Authority, LPurcell@sdcwa.org

Daniel Hentschke, General Counsel, San Diego County Water Authority
DHentschke@sdcwa.org

Dan Diehr, San Diego County Water Authority, DDiehr@sdcwa.org

Erik Spiess, Office of Enforcement, SWRCB, espiess@waterboards.ca.gov

Michael Nelson, San Diego River Conservancy, mnelson@sdrc.ca.gov

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

IN THE MATTER OF:

SAN DIEGO COUNTY WATER AUTHORITY
SAN VICENTE PIPELINE PROJECT
DEWATERING, LAKESIDE, CALIFORNIA

VIOLATIONS OF EFFLUENT LIMITATIONS
IN ORDER NO. 2001-96, NPDES NO.
CAG919002 GENERAL WASTE DISCHARGE
REQUIREMENTS FROM GROUNDWATER
EXTRACTION AND SIMILAR DISCHARGES
FROM CONSTRUCTION, REMEDIATION,
AND PERMANENT GROUNDWATER
EXTRACTION PROJECTS TO SURFACE
WATERS WITHIN THE SAN DIEGO REGION
EXCEPT FOR SAN DIEGO BAY
WDID NO. 9 000001414

AMENDED

COMPLAINT NO. R9-2007-0014

**FOR
ADMINISTRATIVE CIVIL LIABILITY
WITH**

MANDATORY MINIMUM PENALTIES

OCTOBER 2, 2008

SAN DIEGO COUNTY WATER AUTHORITY IS HEREBY GIVEN NOTICE THAT:

1. San Diego County Water Authority is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability pursuant to the Porter-Cologne Water Quality Control Act, §13385 of the California Water Code (CWC). The violations alleged herein include violations of effluent limitations in waste discharge requirements for discharges of pollutants from point sources to navigable waters for which the Regional Board must impose mandatory minimum penalties (MMP).
2. San Diego County Water Authority discharged treated wastewater to a tributary to the San Diego River subject to waste discharge requirements, including numeric effluent limitations, contained in *Order No. 2001-96, NPDES No. CAG919002, General Waste Discharge Requirements for Groundwater Extraction and Similar Waste Discharges from Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters Within the San Diego Region Except for San Diego Bay*.
3. CWC section 13385 (h) includes provisions for MMP for serious violations of waste discharge requirements for surface water discharges. Each serious violation (defined as a violation of an effluent limitation for Group I pollutants by 40 percent or more, or for Group II pollutants by 20 percent or more) is subject to

a three thousand dollar (\$3,000) MMP.

ALLEGATIONS

4. Between December 2005 and January 2007 the discharge to a tributary to the San Diego River exceeded effluent limitations for total nitrogen as noted in *Table 1. Amended Summary of Effluent Violations* (attached).
5. Pursuant to subdivision (h) of Section 13385 of the CWC, the Regional Board must impose an MMP of one hundred thirty five thousand dollars (\$135,000) for the alleged violations of effluent limitations as determined by the following:

- a. On January 9 and 24, 2006, the concentrations of total nitrogen (a Group I pollutant) in your discharge were 2.23 mg/L and 8.35 mg/L respectively, which exceeded the instantaneous maximum effluent limitation (2.0 mg/L) by 40% or more.

Based on samples collected on January 9, 17, and 24, 2006, the average concentration of total nitrogen in January 2006 was 1.73 mg/L, which exceeded the average monthly effluent limitation (AMEL) (1.0 mg/L) by 40% or more.

- b. On February 7 and 24, 2006 the concentrations of total nitrogen in your discharge were 16.1 mg/L and 25.2 mg/L respectively, which exceeded the instantaneous maximum effluent limitation by 40% or more.

Based on samples collected on February 7 and 14, 2006, the average concentration of total nitrogen in February 2006 was 20.6 mg/L, which exceeded the AMEL by 40% or more.

- c. On March 3, 10, 16, 17, and 30, 2006, the concentrations of total nitrogen in your discharge were 20 mg/L, 12.9 mg/L, 5.8 mg/L, 9.3 mg/L and 7.08 mg/L respectively, which exceeded the instantaneous maximum effluent limitation by 40% or more.

Based on samples collected on March 3, 10, 16, 17, 20, 24, and 30, 2006, the average concentration of total nitrogen in March 2006 was 8.3 mg/L, which exceeded the AMEL by 40% or more.

- d. On April 6 and 11, 2006, the concentrations of total nitrogen in your discharge were 6.4 mg/L and 2.96 mg/L respectively, which exceeded the instantaneous maximum effluent limitation by 40% or more.

Based on samples collected on April 6 and 11, 2006, the average concentration of total nitrogen in April 2006 was 4.7 mg/L, which exceeded

the AMEL by 40% or more.

- e. On May 18 and 25, 2006, the concentrations of total nitrogen in your discharge were 5.2 mg/L and 5.28 mg/L respectively, which exceeded the instantaneous maximum effluent limitation by 40% or more.

Based on samples collected on May 18, 25, and 31, 2006, the average concentration of total nitrogen in May 2006 was 3.7 mg/L, which exceeded the AMEL by 40% or more.

- f. On June 13, 20, and 27, 2006, the concentrations of total nitrogen in your discharge were 2.61 mg/L, 6.4 mg/L and 4.9 mg/L which exceeded the AMEL by 40% or more.

Based on samples collected on June 6, 13, 20, and 27, 2006, the average concentration of total nitrogen in June 2006 was 3.72 mg/L, which exceeded the AMEL by 40% or more.

- g. On July 25, 2006, the concentration of total nitrogen in your discharge was 7.67 mg/L, which exceeded the instantaneous maximum effluent limitation by 40% or more.

Based on samples collected on July 7, 13, and 25, 2006, the average concentration of total nitrogen in July 2006 was 3.2 mg/L, which exceeded the AMEL by 40% or more.

- h. On August 1, 8, 15, 22, and 29, 2006, the concentrations of total nitrogen in your discharge were 10.4 mg/L, 3.1 mg/L, 7.8 mg/L, 17.6 mg/L and 3.6 mg/L respectively, which exceeded the instantaneous maximum effluent limitation by 40% or more.

Based on samples collected on August 1, 8, 15, 22, and 29, 2006, the average concentration of total nitrogen in August 2006 was 8.5 mg/L, which exceeded the AMEL by 40% or more.

- i. On September 18, 2006 the concentration of total nitrogen in your discharge was 19.6 mg/L, which exceeded the instantaneous maximum effluent limitation by 40% or more.

Based on the September 18, 2006 sample, the average concentration of total nitrogen in September 2006 was 19.6 mg/L, which exceeded the AMEL by 40% or more.

- j. On October 4, 10, 17, and 25, 2006, the concentrations of total nitrogen in your discharge were 4.3 mg/L, 7.3 mg/L, 4.8 mg/L, and 6.5 mg/L respectively,

October 2, 2008

which exceeded the instantaneous maximum effluent limitation by 40% or more.

Based on samples collected on October 4, 10, 17, and 25, 2006, the average concentration of total nitrogen in October 2006 was 5.7 mg/L which exceeded the AMEL by 40% or more.

- k. On November 7, 16, and 25, 2006, the concentrations of total nitrogen in your discharge were 13.2 mg/L, 2.8 mg/L, and 9.07 mg/L respectively, which exceeded the instantaneous maximum effluent limitation by 40% or more.

Based on samples collected on November 7, 16, 25, and 27, 2006, the average concentration of total nitrogen in November 2006 was 6.5 mg/L, which exceeded the AMEL by 40% or more.

- l. On December 8 and 13, 2006, the concentrations of total nitrogen in your discharge were 8.6 mg/L and 4.6 mg/L respectively, which exceeded the instantaneous maximum effluent limitation by 40% or more.

Based on samples collected on December 1, 8, 13, 19 and 29, 2006, the average concentration of total nitrogen in December 2006 was 3.2 mg/L which exceeded the AMEL by 40% or more.

- m. On January 6, 2007, the concentration of total nitrogen in your discharge was 4.0 mg/L which exceeded the instantaneous maximum effluent limitation by 40% or more.

Based on the sample collected on January 6, 2007, the average concentration of total nitrogen in January 2007 was 4.0 mg/L which exceeded the AMEL by 40% or more.

PROPOSED CIVIL LIABILITY

6. Pursuant to sections 13385(h) and (i) of the CWC, the Regional Board must impose mandatory minimum penalties of one hundred thirty five thousand dollars (\$135,000) on San Diego County Water Authority. No additional civil liability for the violations alleged in this Complaint is recommended.

Dated this 2nd day of October, 2008



MICHAEL P. McCANN
Assistant Executive Officer

October 2, 2008

Signed pursuant to the authority
delegated by the Executive
Officer to the Assistant Executive
Officer

Attachment: Table 1. Amended Summary of Effluent Violations

Violation Date	Constituent	Effluent Limitation	Unit	Permitted Limit	Reported/calculated Value	Serious Violation	Mandatory Minimum Penalty
12/13/2005	Total Nitrogen	Instantaneous maximum	mg/L	2.0	2.3	No	\$0
12/13/2005	Total Nitrogen	AMEL*	mg/L	1.0	2.3	Yes	\$0**
1/9/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	2.23	No	\$0
1/24/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	8.35	Yes	\$3,000
1/24/2006	Total Nitrogen	AMEL*	mg/L	1.0	3.95	Yes	\$3,000
2/7/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	16.1	Yes	\$3,000
2/24/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	25.2	Yes	\$3,000
2/24/2006	Total Nitrogen	AMEL*	mg/L	1.0	20.6	Yes	\$3,000
3/3/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	20	Yes	\$3,000
3/10/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	12.9	Yes	\$3,000
3/16/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	5.8	Yes	\$3,000
3/17/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	9.3	Yes	\$3,000
3/30/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	7.08	Yes	\$3,000
3/30/2006	Total Nitrogen	AMEL*	mg/L	1.0	8.3	Yes	\$3,000
4/6/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	6.4	Yes	\$3,000
4/11/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	2.96	Yes	\$3,000
4/11/2006	Total Nitrogen	AMEL*	mg/L	1.0	4.7	Yes	\$3,000
5/18/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	5.2	Yes	\$3,000
5/25/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	5.28	Yes	\$3,000
5/25/2006	Total Nitrogen	AMEL*	mg/L	1.0	3.7	Yes	\$3,000
6/13/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	2.61	Yes	\$3,000
6/20/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	6.4	Yes	\$3,000
6/27/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	4.9	Yes	\$3,000
6/27/2006	Total Nitrogen	AMEL*	mg/L	1.0	3.7	Yes	\$3,000
7/25/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	7.67	Yes	\$3,000
7/25/2006	Total Nitrogen	AMEL*	mg/L	1.0	3.2	Yes	\$3,000
8/1/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	10.4	Yes	\$3,000
8/8/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	3.1	Yes	\$3,000
8/15/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	7.8	Yes	\$3,000
8/22/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	17.6	Yes	\$3,000
8/29/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	3.6	Yes	\$3,000
8/29/2006	Total Nitrogen	AMEL*	mg/L	1.0	8.5	Yes	\$3,000
9/18/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	19.6	Yes	\$3,000

*AMEL=Average Monthly Effluent Limitation

**Violations occurring prior to January 1, 2006 not submit to MMP

Violation Date	Constituent	Effluent Limitation	Unit	Permitted Limit	Reported/C alculated Value	Serious Violation	Mandatory Minimum Penalty
9/18/2006	Total Nitrogen	AMEL*	mg/L	1.0	19.6	Yes	\$3,000
10/4/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	4.3	Yes	\$3,000
10/10/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	7.3	Yes	\$3,000
10/17/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	4.8	Yes	\$3,000
10/25/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	6.5	Yes	\$3,000
10/25/2006	Total Nitrogen	AMEL*	mg/L	1.0	5.7	Yes	\$3,000
11/7/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	13.2	Yes	\$3,000
11/16/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	2.8	Yes	\$3,000
11/25/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	9.07	Yes	\$3,000
11/25/2006	Total Nitrogen	AMEL*	mg/L	1.0	6.5	Yes	\$3,000
12/8/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	8.6	Yes	\$3,000
12/13/2006	Total Nitrogen	Instantaneous maximum	mg/L	2.0	4.6	Yes	\$3,000
12/29/2006	Total Nitrogen	AMEL*	mg/L	1.0	3.2	Yes	\$3,000
1/6/2007	Total Nitrogen	Instantaneous maximum	mg/L	2.0	4.0	Yes	\$3,000
1/6/2007	Total Nitrogen	AMEL*	mg/L	1.0	4.0	Yes	\$3,000
							\$135,000

*AMEL=Average Monthly Effluent Limitation

**Violations occurring prior to January 1, 2006 not submit to MMP